

FILED
U.S. DISTRICT COURT

My Name Jesse Majors
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2011 JUL 14 P 4:17

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

I am the ☒ Plaintiff
☐ Attorney for the Plaintiff and my Utah Bar number is _____

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

JESSE ANNE MAJORS

Plaintiff,

vs.

THOMAS JEFFERSON SCHOOL OF
LAW, a California Corporation, and
RUDY HASL and JEFFREY JOSEPH and
BETH KRANSBERGER and ERIC
MITNICK and JULIE GARRETT and
CLAIRE WRIGHT and JOY DELMAN
and JULIE CROMER-YOUNG and
ARNOLD ROSENBERG and JANE
LARRINGTON and PATRICK MEYER
and LISA FERREIRA and ANGELA
BAYNE and JAN DAUSS and LISA
CHIGOS and CATHERINE DEAN and
ALL MEMBERS OF THE ETHICS
COMMITTEE OF THOMAS
JEFFERSON SCHOOL OF LAW 2006-
2011

Defendants.

**MEMORANDUM SUPPORTING
DENIAL OF DEFENDANTS'
MOTION TO DISMISS**

Case No. 2:11cv00558 CW

Judge Clark Waddoups
Magistrate Judge Samuel Alba

BACKGROUND

Defendant Thomas Jefferson School of Law submitted Motion to Dismiss alleging failure to state a claim upon which relief may be granted, due to defects in Plaintiff's pleading, under Rule 12(b)(6) Fed. R. Civ. P.

11 Pursuant to Rule 8(a)(1) Fed. R. Civ. P., Plaintiff Jesse Anne Majors moves the court for
12 an Order Denying Defendants' Motion to Dismiss on the grounds that Plaintiff's pleading gives
13 Defendants sufficient notice and adequate information to allow it to formulate an answer,
14 meeting the standard set by *Bell Atlantic Corp. v. Twombly*, 660 U.S. 544, 570 (2007).

15 LEGAL STANDARD

16 While *Twombly*¹ is the current standard, aspects of *Conley v. Gibson*, 355 U.S. 41, 45-46
17 (1957) have not been ignored. Plaintiff, relying on *Conley*², which states that, "a complaint
18 should not be dismissed for failure to state a claim unless it appears beyond doubt that the
19 plaintiff can prove no set of facts in support of his claim which would entitle him to relief",
20 argues her complaint should not be dismissed. Plaintiff's failure to mention one of the elements
21 (which would of course have to be proven at *trial*) should not result in a successful FRCP
22 12(b)(6) Motion to Dismiss for Failure to State a Claim.

23 Additionally, Defendants claim that Plaintiff's pleading does not include enough facts for
24 the Defendants to defend themselves. However, Plaintiff has noted who, what, where and what
25 happened in the "Nature of Action/Factual background" section of Plaintiff's "Amended
26 Complaint", which "allows the court to draw reasonable inference" of the Defendants' liability,
27 meeting the "plausibility" standard set forth in *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009)
28 (citing *Twombly*, 550 U.S. at 556).

29 More importantly, however, is that the Supreme Court reiterated in *Iqbal*³, that, when
30 reviewing a motion filed under Fed. R. Civ. P. 12(b)(6), "the court must accept the factual

¹ *Bell Atlantic Corp. v. Twombly*, 660 U.S. 544 (2007).

² *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

³ *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009).

allegations of the non-moving party as true and draw all reasonable inferences in its favor.”⁴

In Utah, courts have maintained a strong policy of allowing discovery to ensure fairness and justice. The court in *Glacier Land Co., L.L.C. v. Claudia Klawe & Associates, L.L.C.*, 2006 UT App 516, 154 P.3d 852 (2006), noted that “there is a strong policy underlying the modern rules of civil procedure that the ‘instruments of discovery ... together with pretrial procedures make a trial less a game of blindman’s bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent.’ *United States v. Procter & Gamble Co.*, 356 U.S. 677, 682, 78 S.Ct. 983, 2 L.Ed.2d 1077 (1958); *see also Roundy v. Staley*, 1999 UT App 229, ¶ 11, 984 P.2d 404 (plurality opinion) (“[T]he purpose of Utah’s discovery rules [is to] facilitat[e] fair trials with full disclosure of all relevant testimony and evidence.”).”

Therefore, Plaintiff contends that because she has included enough facts to satisfy the legal standards for initial pleadings and because pleadings are not meant to replace the discovery stage of litigation,

Defendant’s Motion to Dismiss should be denied.

ARGUMENT

Because Defendants rely on *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009) in arguing for dismissal on the grounds Plaintiffs’ allegations are “implausible”, Plaintiff appends a modicum of evidence to this Memorandum. Plaintiff has also enumerated the causes of action, matching facts to elements, in response to Defendant’s criticism in its Motion to Dismiss.

FIRST CAUSE OF ACTION BREACH OF CONTRACT

⁴ *Id.* See also *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Christopher v. Harbury*, 536 U.S. 403, 406 (2002).

The basic elements for a breach of contract claim in Utah are: (1) existence of a contract between Plaintiff and Defendant, (2) that Plaintiff did what the contract required Plaintiff to do or that Plaintiff was excused from performing Plaintiff's contractual obligations, (3) that Defendant breached the contract by not performing his obligations and (4) that Plaintiff was damaged because Defendant breached the contract.⁵

Relevant to Plaintiff case, *Paladino v. Adelphi Univ.*, 89 A.D.2d 85, 92; 454 N.Y.S.2d 868, 873 (2d Dept. 1982) stated, "[I]f the Contract with the school were to provide for certain specified services, such as for example, a designated number of hours of instruction, and the school failed to meet its obligation, then a contract action with appropriate consequential damages might be viable."

Offer and Acceptance, Formation of Contract. Defendants offered Plaintiff LSAT Scholarship to attend their law school. Plaintiff accepted offer and paid requisite tuition to attend. Plaintiff attended Defendant Law School from the years 2005 to 2011. Defendants offered additional law school education and Plaintiff accepted these offers every semester she registered and paid tuition. In fact, Defendants made multiple offers of educational opportunities and job opportunities outlined in their Mission Statement, Student Handbook and Dean's Message.

Quasi-Contract. Similar to Plaintiff case, Plaintiff refers to *Roach v. University of Utah, et al*, 968 F. Supp. 1446 D. Utah, C .Div., (1997) in which Plaintiff Roach asserts "a breach of contract claim on the ground that the University of Utah Student Code constitutes a contract between Roach and the University and that the University's failure to follow the Student Code when it dismissed Roach from the CPTP and the MPEP constituted a breach of contract."

⁵ *Bair v. Axiom Design, L.L.C.*, 2001 UT 20; 20 P.3d 388, 392 (2001).

74 Furthermore, “[w]here the existence of a contract is the point in issue and the evidence is
75 conflicting or admits of more than one inference, it is for the jury to determine whether the
76 contract did in fact exist.” *Id.*

77 Every time Plaintiff would attend a class, there were implied offers that if she would
78 attend class and take the final exam in each class she attended, she would be granted a grade and
79 credit for the class. Plaintiff accepted these offers by attending class, completing homework
80 assignments, and taking exams. Plaintiff argues that Policies and Procedures outlined in the
81 Student Handbook and the Procedures outlined in the Student Handbook for Student
82 Organizations, each constitute a quasi-contract between Plaintiff and Defendants.

83 **Performance, Duty.** In *State v. Hunter*, 831 P.2d 1033 (Utah App. 1992), the court held that an
84 agreement, such as a housing agreement, between a university and the student, creates a contract
85 and a contractual duty to abide by that agreement. They stated, “In fact, not only did university
86 officials have a right to maintain an educational atmosphere, they had a contractual *duty* to do so.
87 Paragraph 21 of the housing agreement provides the basis of such duty”. *Id.*

88 Plaintiff contends that Defendants created self-imposed duties to follow the policies and
89 procedures in Defendant Student Handbook. In addition, as will be noted below, Defendants
90 agreed to permit Plaintiff to graduate in exchange for Plaintiff completing certain steps in an
91 Ethics Proposal.

92 **Breach.** A party to a contract breaches the contract if [Plaintiff] fails to do what [Defendant]
93 promised to do in the contract.⁶

94 **Grievance Policy.** Plaintiff had a grievance and tried to follow the “grievance policy” as

⁶ Restat 2d of Contracts § 235 (1981).

95 outlined in the Student Handbook. When Defendants intentionally interfered with that process
96 and ignored her emails and gave her false information, Defendants breached their self-imposed
97 contractual duty to Plaintiff.

98 Multiple emails were sent to Defendant Lisa Chigos asking for her to initiate a
99 harassment claim against Defendant Lisa Ferreira, Defendant Rudy Hasl and Defendant Beth
100 Kransberger, but Lisa Chigos would respond that she was not the person that handled grievance
101 matters.

102 However, when Plaintiff asked Student Services who to contact to initiate a grievance,
103 Student Services confirmed that Lisa Chigos was the contact person to initiate the grievance.
104 Lisa Chigos further denied she was the correct person and said that Plaintiff needed to contact
105 Beth Kransberger who was Lisa Ferreira's supervisor.

106 When Plaintiff said that she wanted to make the complaint against Beth Kransberger,
107 Lisa Chigos referred Plaintiff to Rudy Hasl. When Plaintiff wrote Lisa Chigos for the fourth
108 time that Plaintiff needed to make the harassment claim against Rudy Hasl as well, Lisa Chigos
109 brushed Plaintiff off and replied that there was no one else to assist Plaintiff.

110 By not adhering to the school's self-imposed contractual obligations to follow its own
111 Grievance Policy, Defendants breached their duty to perform and thus, is liable for a breach of
112 contract cause of action.

113 **Ethics Proposal.** Plaintiff followed every step outlined in ethics proposal. This proposal
114 was considered a contract in that Plaintiff would write another directed study paper, attend 5
115 hours of legal citation training, attend 5 hours of MCLE Ethics Credits, and a note of this
116 proposal will be left in Plaintiff's file. Defendants agree that once Plaintiff has performed her

117 part of the proposal, Defendants will allow Plaintiff to remain as a student, grant Plaintiff a grade
118 on the directed study project and allow her to continue her studies toward graduation.

119 After Plaintiff completed the requirements of the proposal as best she could, Defendants
120 threatened her with expulsion from school. Plaintiff attempted to complete every step as
121 outlined in the proposal, including getting prior permission from the Ethics Committee of which
122 Professor Plaintiff wanted to work with, the topic they had agreed on, and the names of the
123 MCLE classes Plaintiff wished to take. The Ethics Committee never answered her.

124 For nearly a full year, Plaintiff's email and phone calls were ignored. When Plaintiff
125 realized she was getting nowhere, she sent a demand letter to multiple persons involved in the
126 process requesting that the entire proposal be expunged. This demand was also ignored.

127 Hence, Plaintiff felt she still had a duty to perform as reasonably she could, acting, in
128 fact, above and beyond what would normally be expected of a student in this situation by writing
129 another directed study paper with no supervision, no citation help, and no feedback to help guide
130 her through several drafts.

131 Plaintiff also paid for Ethics training and viewed podcasts of MCLE Training
132 Workshops, Pre-Approved by the ABA to gain 5 MCLE credits in Ethics. Plaintiff went one
133 step further and sent in her documented viewings for approval by the State Bar of California for
134 MCLE Credit in Ethics.

135 Because Defendants never responded to Plaintiff and Plaintiff more than satisfied her
136 duty to perform her portion of the Ethics Committee proposal and Defendants refused to grant
137 Plaintiff what was due her under the proposal, Defendants are liable for breach of contract.

attached to the Student Handbook as an exhibit). Again, though, please be aware that if the Committee finds that you committed an ethical violation at the conclusion of such a hearing, it could impose a harsher penalty than it has proposed already.”

A follow-up email from Claire Wright further perpetuated the coercion, “Just to clarify your response, you won’t be seeking a hearing in your case, right?”

An email from Dean Beth Kransberger helps to confirm allegations in Paragraph 10 of Plaintiff’s “Amended Complaint”.¹⁸

There are numerous emails in which such behavior is confirmed. (Plaintiff avers that there is no much evidence to confirm allegations contained in this Memo that discovery and litigation must be allowed. There is no room in procedural processes to fully discuss the nature of Plaintiff case.)

This type of behavior continued throughout Plaintiff’s law school career. The harassment and intimidation was so pervasive and severe that Plaintiff’s parents got involved. Plaintiff’s father, Dwight Barrett, tried numerous times to facilitate the progress of Plaintiff’s education and get answers Plaintiff was never given. Mr. Barrett was also ignored and treated with hostility.

Sexual Harassment. Plaintiff was sexually harassed by Defendant Arnold Rosenberg that resulted in creating a hostile educational environment. According to Defendant’s Student Handbook, “Sex Offenses” section defines sexual assault as “any sexual contact with another person that occurs without the consent of the victim or is offensive to the victim.” The sexual assault occurred when Defendant Arnold Rosenberg fondled Plaintiff’s hands as he threatened to “have them forensically tested for paint). According to *Harris v. L&L Wings, Inc.*, 132 F.3d 978, 980 (4th Cir. 1997), “sexual harassment can include stroking, patting, and massaging the

¹⁸ “No one does anything at Jesse Majors request. Please forward all her email requests on the non-academic side to me, and all academic related requests to Eric.”

138 **Graduation Requirements.** As outlined in Defendant's Student Handbook, the
 139 eligibility guidelines are guidelines determined by Defendant law school and overseen by the
 140 State Bar of California. Plaintiff completed all the requirements for graduation as outlined in the
 141 Student Handbook, but the school is not allowing Plaintiff to graduate. Plaintiff completed 86
 142 hours of law study. Plaintiff wrote several papers in upper division classes to satisfy the "Upper
 143 Level Writing" requirement of Defendant law school. Plaintiff maintained requisite GPA for
 144 each class to be counted toward credit requirement.

145 Because Plaintiff met the graduation requirements outlined in Defendant Student
 146 Handbook and Defendants refused to allow Plaintiff to graduate, Defendants are liable for breach
 147 of contract.

148 **Student Organization.** During the ethics investigation, Plaintiff asked for and was
 149 granted permission by Defendant Beth Kransberger to form a new student organization, based on
 150 the Defendants Handbook for Student Organizations, not knowing Plaintiff's current GPA which
 151 is an element for forming a new student organization.

152 Plaintiff followed every step in student organization process and Defendants Lisa Ferreira
 153 and Julie Garrett allowed Plaintiff to perform every step in forming a new student organization.
 154 In fact, both Julie Garrett and Lisa Ferreira were given a copy of the By-Laws and Constitution,
 155 Position Description and Member List. In addition, on February 14, 2010, almost *two weeks*
 156 *after* Plaintiff sent an email to the Student Bar Association and Lisa Ferreira asking permission
 157 to start the organization,⁷ *and after* a follow-up email Plaintiff has sent to Lisa Ferreira, along

⁷ Email to SBA: "Hello, SBA...I have talked with Defendant Lisa Ferreira about starting a new organization, one I am VERY enthusiastic about. I would like to develop a charter for Thomas Jefferson School of Law ADLF, which is the Animal Legal Defense Fund. Many colleges already have one and I have already started the process with Nicole Pollata about getting us our own chapter, but I need to send a school-wide email to encourage membership,

158 with a carbon copy to Julie Garrett, Rudy Hasl, Beth Kransberger, Eric Mitnick, and Chris
159 Paulos, advising Lisa of the new student organization Plaintiff was forming, Lisa Ferreira
160 confirmed she had received the information:

161 "I have received the information. You will be hearing back from me with any questions as I am in charge
162 of the student organizations on the staff side".
163

164 If Plaintiff was not allowed to form a new student organization, Lisa Ferreira and Julie Garrett
165 had a duty to advise Plaintiff of such. No such notice was given to Plaintiff. However, after
166 Plaintiff had successfully formed the organization, Plaintiff was asked to resign and transfer what
167 work she had performed over to the organization, a new President and staff.

168 Because Plaintiff was given permission to form a new student organization and because
169 Defendants never advised Plaintiff differently while the student organization was in process of
170 being formed, Defendants breached their fiduciary duties to Plaintiff.

171 Hence, because Plaintiff and Defendants through written and oral communications
172 created contracts and because Defendants had fiduciary duty to Plaintiff to conform to their
173 contractual obligations and consequently, did not perform their duties, Defendants are liable for
174 breach of contract.

175 Plaintiff incorporates "Prayer for Relief" section of Plaintiff's "Amended Complaint" for
176 the amount of damages Plaintiff has suffered.

find officers, generate responses and that sort of thing. I was told by Lisa that this sort of email needs to go through your department, so I am asking if that would be okay. Here is my general idea, based on the by-laws and mission statement of the ADLF themselves. Could you please generate an email about starting a local chapter and anyone interested in becoming an officer or just general interest can email me at majorsja@tjisl.edu? Thank you so much! I can't wait to get this going."

Plaintiff also incorporates Paragraphs 1, 2, 4 (especially lines 39-41), 5, 6 (especially lines 55-57), 7, 8, 9, 10, 13 (especially lines 125-127), 15 (especially lines 136-140), and 16 of Plaintiff's "Amended Complaint".

**SECOND CAUSE OF ACTION
VIOLATION OF CONSTITUTIONAL RIGHTS**

Government Action. In *Lebron v. National R.R. Passenger Corp.*, 513 U.S. 374, 115 S.Ct. 961 U.S.N.Y. (1995), the court stated, "We have held once, in *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961), and said many times, that actions of private entities can sometimes be regarded as governmental action for constitutional purposes." The court also noted in *Lebron*, that close ties to the federal government, including being overseen by government entities, furthering government objectives and appointment of a private entity's board of directors can meet the definition of government action, thus making the private entity as government actor.⁸

Defendant law school receives funds from the federal government to pay students' tuition. Defendant law school receives funds from the federal government to reimburse students for employment under Federal Work Study programs. In addition, Defendant's Student Handbook states, "the eligibility guidelines are guidelines determined by Defendant law school and overseen by the State Bar of California."

Thus, because Defendants receive money from the government, participate in federally funded programs and are overseen by the State Bar of California, Defendants qualify as government actors and can be liable for constitutional violations.

Family Educational Rights and Privacy Act (FERPA). Under the Family Educational and

⁸*Lebron v. National R.R. Passenger Corp.*, 513 U.S. 374, 115 S.Ct. 961 U.S.N.Y. (1995).

200 Privacy Act of 1974 (FERPA), students have a right to inspect their education records; request
201 the amendment of their education records to ensure that they are not inaccurate, misleading, or
202 otherwise in violation of the student's privacy or other rights; consent to disclosures of
203 personally identifiable information contained in their education records, except to the extent that
204 FERPA authorizes disclosure without consent; file with the U.S. Department of Education a
205 complaint concerning alleged failures by the school to comply with the requirements of FERPA;
206 and obtain a copy of the school's FERPA policy."

207 Plaintiff asked for a copy of her file, specifically with regards to the ethics investigation
208 taken against her, from Defendant Claire Wright, a Professor and Chair of the Ethics Committee
209 along with a carbon copy of Plaintiff's request sent to Eric Mitnick:

210 "I have still not received a copy of the ethics investigation documents and taped interview. Could you
211 please let me know when these will be available for me? This is, I believe, my third formal request for a
212 copy..."
213

214 Claire Wright refused to grant Plaintiff's request which is against federal law. (Claire Wright
215 also sent a carbon copy of her email to Eric Mitnick):

216 "I've only received one other request from you for the file in your case. ...It is not the normal practice of
217 the Ethics Committee to turn over its files to a student, and the Student Handbook (including the Student
218 Code of Conduct) does not refer to such a practice. Moreover, you have accepted the Committee's
219 proposed informal resolution of your case and the case is now closed. It is not clear to me what additional
220 information you would be seeking at this point in time or what your intended use of such information
221 would be".
222

223 Defendant Claire Wright lied about the information in the Student Handbook and it is against the
224 law for her to require the Plaintiff to divulge private information such as "what the information
225 [contained in a student's file] will be used for" before turning over the information.

226 Plaintiff again asked for a copy of her file in an email sent to Claire Wright along with a
227 carbon copy to Eric Mitnick:

228 "As for a copy of my file, it actually DOES say in the Student Handbook that I am entitled to a copy of my

229 file. The Student Handbook states, in the section titled, "LAW SCHOOL INSTRUCTIONAL POLICIES,
230 RULES & REGULATIONS", Under Section III. GENERAL ADMINISTRATIVE POLICIES and Section
231 K. Inspection of Student Records... I have already received a copy of my records from the Registrar's
232 Office, via a written petition, but the portions I have requested specifically from you were not in my file.
233 That's why I am having to request them from you directly. I apologize for the inconvenience, but if you
234 could get those documents and the tape to me as soon as possible, I would appreciate it."
235

236 Plaintiff has received a copy of her records from Student Services, but it is incomplete.

237 Plaintiff received a copy of the taped "informal hearing" conducted by Defendants Joy Delman
238 and Julie Cromer-Young, but Plaintiff still has not received a full, complete copy of her student
239 records to this day. Thus, because Defendants have failed to grant Plaintiff a full and complete
240 copy of her Student Records, Defendants are liable for violation of federal law.

241 Transcripts. Plaintiff requested an official copy of her transcript and an unofficial copy of her
242 transcript to be sent to her. Plaintiff requested this via the school's website,
243 <https://myvillage.tjisl.edu/selfservice/home.aspx>, via email to registrar@tjisl.edu , via email to
244 Kim Grennan (king@tjisl.edu) with the registrar's office, via fax, and via phone.

245 The "myvillage" website indicated that Plaintiff did not have access to the transcript.
246 The registrar never responded to Plaintiff email.

247 The fax was successfully sent, but no transcript was ever received.

248 Plaintiff also requested that official transcripts be sent to the Skadden Foundation, Equal
249 Justice Works, several employers and the State Bar of California.

250 Plaintiff received notification that she was denied a fellowship with Skadden Foundation
251 because her file was incomplete, indicating that they never received her transcript. Plaintiff was
252 more than qualified to receive the fellowship and absent a transcript, Plaintiff lost out on large
253 sum of money.

254 Plaintiff paid \$150.00 for the State Bar of California to perform an Evaluation of Law
255 Study Completed. In order for the State Bar of California to conduct the evaluation, transcripts
256 from every institution Plaintiff studied law needed to be sent to them. Plaintiff knows that no
257 transcript was ever sent to her or the State Bar because the State Bar of California mailed
258 Plaintiff a letter stating that when they receive Plaintiff's transcript from Defendant, they can
259 continue the evaluation. The State Bar of California has not received a transcript as of this date.

260 When Plaintiff called Defendant registrar office, Plaintiff spoke to Claudia Ferguson and
261 asked to get a transcript at that time. Claudia advised Plaintiff that there was something in
262 Plaintiff's file indicating that Claudia could not grant Plaintiff's request. Claudia advised
263 Plaintiff that Claudia had to "talk to Dean Mitnick first". When Plaintiff inquired why Claudia
264 could not send Plaintiff a transcript and why Claudia needed to talk to Dean Mitnick, Claudia did
265 not give a reason. After placing Plaintiff on hold, Plaintiff was told by Claudia that Plaintiff
266 would have to talk to Dean Mitnick first. As Plaintiff again asked why, Plaintiff was cold-
267 connected to Dean Mitnick's phone. There was no answer. Plaintiff left a message requesting a
268 transcript. No reply phone call or email was given.

269 In response to not receiving transcripts after multiple attempts, Plaintiff sent an email to
270 Eric Mitnick, Dean Rudy Hasl, Jeff Joseph and Claudia Ferguson with a one line request: "i
271 want to know why i was denied a transcript request". The only person that replied was Dean
272 Rudy Hasl and it was blatantly rude, unprofessional and did not answer Plaintiff's question.
273 Instead, Dean Rudy Hasl criticized Plaintiff and made derogatory remarks about her, never
274 bothering to answer Plaintiff's question:

275 "I have been waiting for some type of response to my notice to you that you were subject to immediate
276 dismissal for submitting a plagiarized paper in satisfaction of a prior ethics violation requirement. I am

concerned that you seem oblivious to the ethics transgression involved in submitting such a paper. Your only response was to question who did the research to demonstrate that the paper was plagiarized. The only other information that I received was that Gregg Miller, who had been supervising your work, was not continued as an employee of the School. Not only will you not be able to graduate, but I suspect that no bar admissions committee would permit you to take the bar examination or be qualified for admission. I am sorry that our educational program did not instill within you the ethical sensitivity that is required by someone who seeks to be a member of the bar. Not having heard from you on the merits of this incident, I have no alternative but to implement an immediate suspension of your registration as a student.”⁹

Plaintiff has still not received any transcript as of this date.

Because Defendants refused to give Plaintiff a complete and accurate copy of Plaintiff’s records and because Defendants refused to deliver transcripts to Plaintiff and other third party’s at Plaintiff’s request, Defendants violated Plaintiff’s constitutional rights under FERPA.¹⁰

Pursuit of Livelihood. The Fifth Amendment of the Constitution guarantees the pursuance of life, liberty and property. Courts have decided that within the ‘liberty’ and ‘property’ concepts, is the right to pursue a chosen profession, stating in *Stidham v. Tex. Comm’n on Private Sec.*, 418 F.3d 486, 491 (5th Cir. 2005), “The Supreme Court has said that ‘the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth] Amendment to secure[,]’ and this court has ‘confirmed the principle that one has a constitutionally protected liberty interest in pursuing a chosen occupation.’” Additionally, in *Becker v. Illinois Real Estate Admin. and Disciplinary Bd.*, 884 F.2d 955, 957 (7th Cir. 1989), “Several professions have been recognized as constituting ‘common occupations.’ These professions include an attorney.”

Before Plaintiff went to law school, Plaintiff was gainfully employed since the age of 17. Plaintiff did not have difficulty finding employment when there were periods of temporary

⁹ Dean Defendant Defendant Rudy Hasl sent a carbon copy of this email to Kim Grennan, not originally privy to this information. This email also contains false statements and threats which Plaintiff contends goes to the defamation and violation of constitutional right to be free from harassment and creating a hostile educational environment causes of action contained in Plaintiff’s “Amended Pleading” and later sections of this Memo.

¹⁰ Supra at 7.

unemployment during her transition between California and Utah. Plaintiff has applied for over 100 jobs and has not been employed since being granted unemployment benefits February 13, 2011.

Plaintiff incorporates Paragraph 1, 2, 5, 7, 9, 10, 11, 15 and 18 of Plaintiff's "Amended Complaint" and Paragraphs "FERPA" and "Transcripts" of the "Violation of Constitutional Rights" section of this Memo above.

Because Defendants have refused to release transcripts as requested and because Defendants have maintained negative documents in her file, Defendants have unlawfully hindered Plaintiff's career as an attorney and are thus, liable for violation of Plaintiff's constitutional right to pursuit of livelihood.

Gender, Age and Religion Discrimination. Plaintiff complains that not only did Defendants violate their self-imposed Anti-Discrimination Policy, but that Defendants violated Title IX of the Education Amendments of 1972¹¹, U.S. Code Title 42, Chapter 21¹² and Title VII of the Civil Rights Act of 1964¹³.

According to Title IX of the Education Amendments of 1972,¹⁴ "Programs and activities which receive federal funds must operate in a nondiscriminatory manner." Defendant law school receives funds from the federal government to pay students' tuition. Defendant law school

¹¹ Title IX of the Education Amendments of 1972 states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

¹² 42 U.S.C.A §1983 Generally-Civil Action for deprivation of rights "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..." and 42 U.S.C. §2000 "Congress exercised constitutional power in enacting Civil Rights Act of 1964, declaring that public policy is to prohibit discrimination in public accommodations.

¹³ 20 U.S.C.A. § 1681; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.

¹⁴ Supra at 11.

319 receives funds from the federal government to reimburse student for employment under the
320 Defendant law school Federal Work Study programs.

321 In addition, Title 42, Chapter 21 of the U.S. Code¹⁵ states that “discrimination against
322 persons based on age, disability, gender, race, national origin, and religion (among other things)
323 can occur in a number of settings -- including education, employment, access to businesses and
324 buildings, federal services, and more.” The discrimination that Plaintiff complains of occurred
325 while Plaintiff attended Defendant law school, which is an educational institution.

326 **Religion.** Plaintiff argues that, according to *Christian Legal Soc. Chapter of the*
327 *University of California, Hastings College of the Law v. Martinez*, 130 S.Ct. 2971 (U.S. 2010),
328 “regardless of whether they are the product of secular or spiritual feeling, hateful or benign
329 motives, all acts of religious discrimination are equally covered.” Hence, Plaintiff contends that
330 because Plaintiff is from Utah, a predominantly Mormon state, a discriminatory feeling based on
331 her religion was the motive that triggered the continued discriminatory actions Plaintiff
332 experienced during her attendance at Defendant law school.

333 For example, at orientation at Defendant law school, Dean Beth Kransberger announced
334 that she was a gay and lesbian rights activist. During conversations after orientation, Beth
335 Kransberger divulged that she was a lesbian. While Plaintiff agrees that this communication was
336 not directed at Plaintiff, the conversation made Plaintiff feel very uncomfortable about her
337 religion and argues that this type of communication is very inappropriate in the educational
338 context.

339 In addition, Plaintiff wrote an article for the school newspaper comparing aspects of Utah

¹⁵ Supra at 12.

and California as observed through Plaintiff's eyes. Plaintiff experienced "culture shock" and that's what the article was about. According to the Editor-In-Chief at the time¹⁶, she was asked by the Student Bar Association to not publish Plaintiff's article because some of Plaintiff's comparisons were considered derogatory against California. The article was published anyway. However, after the article was published, the Plaintiff received rude and disparaging comments regarding the article.

Gender and Age. During the "informal meeting" portion of an ethics investigation, Joy Delman and Julie Cromer-Young verify Defendants unlawfully questioned Plaintiff about her "mothering skills", asking Plaintiff "how she handles stress at her age and inquiring "how old" Plaintiff is. These questions are highly inappropriate and demonstrate the prima facie discriminatory misconduct of the Defendants.

Plaintiff incorporates Paragraphs 1, 2, 3, 4, 5, 9, 10, 12, 13, 15 and 18 of Plaintiff's "Amended Complaint".

Harassment and Discrimination Resulting In Creation of Hostile Educational Environment. The Affirmative Action and Equal Opportunity Department at Oregon Health & Science University has defined a hostile educational environment as occurring when "unwelcome verbal, non-verbal, or physical behavior of a prohibited nature is severe and pervasive enough to unreasonably interfere with an employee's work or a student's learning, or creates an intimidating, hostile, or offensive environment to a 'reasonable person.'"¹⁷ The article continues, "Prohibited discrimination and harassment generally carry a component of power

¹⁶ Plaintiff cannot remember the individual's name at this time.

¹⁷ "AAEO Investigates Civil Rights Allegations", http://www.ohsu.edu/aaeo/investigation/hostile_environment.html (last accessed July 13, 2011).

360 differential between individuals; therefore, a person who seems to acquiesce to discriminatory or
361 harassing conduct may still be considered a victim of prohibited harassment.” *Id.*

362 In addition, according to Defendant law school Student Handbook, “Disruption of the
363 Educational Process” section, disruptions of the educational process are “Disruptions that
364 wrongfully interfere with the educational process may include, but are not limited to:
365 Harassment, threats, intimidation, or any other action, whether on or off campus, that
366 hinders a student from pursuing his or her education at the law school, or that hinders
367 any law school faculty or staff member from performing his or her functions at the law
368 school...Disrupting or impairing the classroom environment”.

369 Plaintiff complains that the actions of defendants, created such a hostile educational
370 environment that Plaintiff had to take multiple leaves of absence, unnecessarily prolong her
371 graduation, attend multiple counseling sessions, increase medication for handling anxiety and
372 stress and caused medical problems that may not have otherwise occurred such as Hepatitis E
373 (due to an overdose of Tylenol Plaintiff took to reduce headaches while attending Defendant law
374 school) and congestive heart failure due to pregnancy complications (which began during Finals
375 week at Defendant law school).

376 Plaintiff has already mentioned in Plaintiff “Amended Complaint” the first instance of
377 sexual harassment inflicted upon her by Arnold Rosenberg. Because this incident was so severe,
378 Plaintiff was scared to voice her opinion or request a hearing when Plaintiff was falsely accused
379 of plagiarism. An email from Claire Wright of the Ethics Committee confirms the coercive
380 nature of the Defendants:

381 “Of course, you can still request a formal hearing in your case. As explained in the Committee’s original
382 letter to you, the procedures of such a hearing are spelled out in the Student Code of Conduct (which is

406 shoulders.” “This covers physical conduct such as unwelcome kissing, touching, patting,
407 pinching, rubbing against, stroking, fondling, grabbing, assault, cornering, or other physical
408 conduct of a sexual nature, or coerced sexual intercourse.” *Id* at 980.

409 Not only did Plaintiff find Defendant Arnold Rosenberg’s conduct sexual in nature,
410 nonconsensual, but extremely offensive. In fact, Plaintiff contends that Defendant Arnold
411 Rosenberg’s behavior was meant to intimidate her into not making a formal complaint against
412 the male student who assaulted her in the parking lot so that Arnold Rosenberg could informally
413 resolve the situation by ordering Plaintiff to attend anger management classes in lieu of Arnold
414 Rosenberg having to perform a full investigation.¹⁹

415 Furthermore, Plaintiff’s request to Defendant Human Resource Manager Lisa Chigos to
416 begin a harassment claim was ignored. Not only did Defendant Lisa Chigos and Defendant
417 Law School not follow their own policy for reporting violations of sexual offenses in Defendant
418 Law School Student Handbook, but that in *Doe v. University of Illinois*, 138 F.3d 653, 661 (7th
419 Cir. 1998), following the Supreme Court’s analysis, stated that a “school’s failure to respond
420 promptly to known sexual harassment is itself intentional discrimination based on sex.

421 Thus, because Defendant Law School is an educational institution and individual
422 Defendants are employees of said law school and because Defendants unlawfully questioned
423 Plaintiff regarding her age and mothering skills and because Defendants allowed sexual

¹⁹ This type of sexual harassment is known as “quid pro quo” harassment. See *EEOC Policy Guidance on Sexual Harassment*, [http:// www.eeoc.gov/docs/currentissues.html](http://www.eeoc.gov/docs/currentissues.html) (concluding that a single instance of harassment can be enough to establish a Title IX violation). See generally *EEOC Policy Guidance on Current Issues of Sexual Harassment*, [http:// www.eeoc.gov/docs/currentissues.html](http://www.eeoc.gov/docs/currentissues.html) (outlining the EEOC’s sexual harassment policy) (last modified Mar. 19, 1990) (last accessed July 14, 2011).

harassment to go unanswered for, Defendants are liable for gender and age discrimination, sexual harassment and creation of hostile education environment under constitutional laws.

**FOURTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF MENTAL ANGUISH AND EMOTIONAL
DISTRESS**

The tort of intentional infliction of emotional distress has four elements: (1) the defendant must act intentionally or recklessly; (2) the defendant's conduct must be extreme and outrageous; and (3) the conduct must be the cause (4) of severe emotional distress.²⁰

Plaintiff contends that defendants knew that Plaintiff was trying to fulfill her obligations under the information resolution to the Ethics Violation because Plaintiff sent multiple emails that were ignored. There was no way for the Defendants to justify not answering Plaintiff's email because Plaintiff sent the emails to multiple Defendants, Plaintiff's email preferences were set to notify Plaintiff that the email was successfully sent and Plaintiff's name was her email address.

Furthermore, Plaintiff's parents sent emails and they were also ignored. For over 1 ½ years, no progress was made on Plaintiff's resolution, but not due to Plaintiff's lack of trying. Ignorance of Plaintiff for that long constitutes extreme and outrageous conduct, especially for an educational, professional institution that Thomas Jefferson School of Law claims to be. All the members of the Ethics Committee and other Defendants are Professors and/or Attorneys at one time. They are held to a higher standard of professionalism so their conduct is especially egregious. Not only did this cause Plaintiff extreme emotional distress, but her family felt the effects as well. All their lives were placed on hold due to the Defendants actions.

²⁰ Restat 2d of Torts, § 46

446 Plaintiff emailed every defendant multiple times, following up ignored emails with a
447 phone call and voice message if no one answered. Plaintiff contends that because multiple
448 defendants were emailed and multiple emails were sent, followed by phone calls, most of which
449 were not responded to that an intentional act, albeit negligently, to inflict emotional distress on
450 Plaintiff was the motive for the non-response. Plaintiff also contends that this created an
451 extremely hostile educational environment.

452 Plaintiff was required under the Ethics Proposal to obtain prior approval from the Ethics
453 committee before attending Ethics training and before beginning work on the additional directed
454 study project. However, not only did Plaintiff request permission to work with Professor Gregg
455 Miller on the project, but Professor Gregg Miller, did also. Plaintiff's request to complete the
456 requisite ethics training via podcasts, and/or online went unanswered. Plaintiff's requests were
457 ignored for so long, that the semester ended and the options to attend ethics training and work
458 with Professor Gregg Miller were no longer an option.

459 While Defendant Dean Defendant Rudy Hasl claimed that Plaintiff was expelled from
460 Defendant law school, this did not happen. Defendant Dean Defendant Rudy Hasl threatened
461 Plaintiff on at least two occasions that this would happen, but Plaintiff was allowed to register
462 for classes after the first threat and Plaintiff continued to communicate with Defendants after
463 second threat. Plaintiff was never formally expelled; only threatened with expulsion.

464 Plaintiff incorporates "Breach of Contract" and "Defamation" sections of this Memo.

465 Plaintiff incorporates Paragraphs 4, 5 (lines 44-47), 7, 9 (especially noting portion where
466 Dean Beth Kransberger ran away from Plaintiff showing intent on part of Defendant), 10, 12, 14,
467 15 and 17 of Plaintiff's "Amended Complaint".

468 Plaintiff adds to Paragraph 8 of Plaintiff's "Amended Complaint" in that Defendant
469 Claire Wright asked Plaintiff specifically to notify her within a week if Professor Joy Delman or
470 Professor Julie Cromer-Young did not notify Plaintiff of date of informal hearing. However,
471 when Plaintiff complied with Defendant Claire Wright's request, Defendant Claire Wright sent
472 Plaintiff a derogatory email implying that Plaintiff was being unnecessarily impatient and rude.

473 Plaintiff adds to Paragraph 9 of Plaintiff's "Amended Complaint" that a faculty secretary
474 to the dean of a law school would most likely not ignore requests from students to meet with said
475 dean. However, Defendant Jan Dauss did exactly that. Plaintiff sent Defendant Jan Dauss
476 multiple emails requesting an appointment to meet with Defendant Dean Rudy Hasl, including in
477 the body of the email Plaintiff's schedule and available times for an appointment. Plaintiff was
478 never granted an appointment and several of Plaintiff's emails were left unanswered.

479 Because Defendants continued throughout Plaintiff's law school career to intentionally
480 mistreat her, threaten her and harass her, and ignore her, including allowing sexual harassment to
481 go unanswered for, and because Defendants coerced Plaintiff into accepting resolutions to ethics
482 violations she did not commit and because Defendants' conduct caused Plaintiff's family and
483 self mental anguish, Defendants are liable for intentional infliction of emotional distress.

484 **FIFTH CAUSE OF ACTION**
485 **DEFAMATION**
486

487 The tort of defamation includes both libel and slander. Basically, any statement, whether
488 written or oral, that injures a party's reputation can be considered defamation.²¹ However, to
489 establish a prima facie case of defamation, four elements must be proven: (1) a false statement,
490 (2) publication or communication of that statement to a third party, (3) negligence or intent on

²¹ See, e.g. *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993)

491 the part of the person making the statement and (4) some harm caused to the subject of the
492 statement.

493 Dean Rudy Hasl emailed Plaintiff, which he carbon copied to Eric Mitnick, Jeff Joseph
494 and Kim Grennan false statements, including the statement that Plaintiff never responded to him.
495 Kim Grennan was not privy to this information. In the initial email requesting why Plaintiff was
496 denied a transcript, the email was not sent to Kim Grennan. In fact, not only did Plaintiff
497 respond to him in several emails, his parents did, also, constituting approximately ten emails.

498 Defendant Claire Wright stated she never received emails from Plaintiff, but if that were
499 true, it is inconceivable that Defendant Claire Wright would have received only one email from
500 Plaintiff. Furthermore, if Plaintiff's emails were incidentally forwarded to Defendant Claire
501 Wright's spam folder or trash, it is Defendant Claire Wright's responsibility to check her email
502 to maintain her duty to her students.²² Also, it is unlikely that Defendant Claire Wright would
503 not have received Plaintiff email as Defendant Claire Wright claimed and not recognized it as
504 coming from Plaintiff as Plaintiff's name is the main part of Plaintiff email address:
505 "jessemajors@netscape.com."

506 Defendant Jeff Joseph notified Plaintiff via email that he would be asking Eric Mitnick to
507 look over Plaintiff's second directed study paper. This was not done. In fact, Defendant Jeff
508 Joseph instead forwarded Plaintiff's paper to Defendant Catherine Dean. Catherine Dean was
509 not given permission by Plaintiff to review her paper and was not privileged to this information
510 because she was not a party involved in the Ethics investigation. Catherine Dean reviewed
511 Plaintiff's paper for legal citation errors, but to this date, even after Plaintiff requested to know

²² See Breach of Contract section of this Memo citing that professors have a contractual duty to their students to adhere to the policies and procedures of the Student Handbook.

who Catherine Dean was and what affiliation she had with Defendant Law School, Plaintiff does not know who Catherine Dean is. Catherine Dean, if affiliated with the law school, has now been unlawfully informed of Plaintiff's alleged plagiarism, thus harming Plaintiff's reputation.

In Defendants' Memorandum Supporting Motion to Dismiss, it stated that Plaintiff was expelled from Defendant Law School, which is false. The only way that Defendants Attorney, Robert Wilde, would have made that statement is if he was told that by one of the defendants.

Thus, because false statements that Plaintiff has been expelled from school, that Plaintiff is guilty of plagiarism and because Robert Wilde, Kim Grennan and Catherine Dean are third parties not given permission by Plaintiff access to personal information and because the statements were volitionally published in emails and legal documents, harming Plaintiff's reputation to key law school personnel, Defendants are liable for defamation.

Plaintiff incorporates Paragraphs 2, 7, 10 (lines 91-98), 12, and 14 of Plaintiff's "Amended Complaint".

Plaintiff also incorporates Violation of Constitutional Rights, "Transcripts" and "Pursuit of Livelihood" sections of this Memo.

**RESPONSE TO DEFENDANTS "DEFECTS IN PLEADING" SECTION OF
DEFENDANTS MEMORANDUM SUPPORTING MOTION TO DISMISS**

Crimes. Torts, such as intentional infliction of emotional distress and defamation, noted above, are defined in Restatement of Torts (Second) Section 46 as:

"civil wrongs recognized by law as grounds for a lawsuit. These wrongs result in an injury or harm constituting the basis for a claim by the injured party. While some torts are also crimes punishable with imprisonment, the primary aim of tort law is to provide relief for the damages incurred and deter others from committing the same harms. The injured person may sue for an injunction to prevent the continuation of the tortious conduct or for monetary damages."

Plaintiff has enumerated intentional infliction of emotional distress and other torts, which qualify

as civil actions, above.

Constitutional Violations. Please see “Violation of Constitutional Rights” section of this Memo.

Defamation. Please see “Defamation” section of this Memo.

Professional and Ethical Violations. Plaintiff did not mean to imply that professional and ethical violations were separate causes of action. Plaintiff apologizes and asks Defendants and the Court to disregard that implication.

Other Pleading. Please see “Intentional Infliction of Emotional Distress”, and “General Harassment” sections of this Memo.

Exhaustion of Any Related Administrative Remedies. Please incorporate to argument below, “Breach of Contract”, “Sexual Harassment” and “Violation of Constitutional Rights” sections of this Memo.

Plaintiff followed and/or tried to follow the policies and procedures outlined in Defendant’s Student Handbook for every cause of action Plaintiff asserts. In fact, Plaintiff was forced to involve General Counsel Defendant Jeff Joseph in order for certain policies and procedures to be followed and no longer ignored. Plaintiff tried to get the cooperation of nearly every Dean of the law school, including Dean Eric Mitnick, Dean Beth Kransberger, and Dean Rudy Hasl, Human Resource Department Representative Defendant Lisa Chigos, Student Services Advisors Lisa Ferreira and Angela Bayne, Head of the Ethics Committee Claire Wright, SBA President Chris Paulos and later SBA President Jeremy Evans.²³

²³ Jeremy Evans met with Dean Rudy Hasl to assist me in resolving our disputes and was told “to not get involved.” Email from Jeremy Evans: “After speaking with the Deans today, I was told not to get involved and that Dean Hasl was handling the situation we discussed”.

559 No policy or procedure was ever fully complied with.

560 However, Plaintiff did not complaint about every negative incident that occurred against
561 her. In some instances, Plaintiff was intimidated into not doing so. In others, Plaintiff, mentally
562 exhausted and emotional drained, gave up. In even others, Plaintiff was so frustrated and upset
563 that Plaintiff's family had to get involved.

564 The most significant example of Plaintiff exhausting all administrative remedies was
565 when she tried to avoid litigation by requesting the State Bar of California to perform an
566 "Evaluation of Law Study Completed". As noted above, in the Violation of Constitutional
567 Rights, "Transcripts" section, Defendants prevented that remedy from taking place. Thus,
568 because Defendants are the contact persons responsible for seeing that policies and procedures
569 outlined in Defendant Law School Student Handbook are followed and progress accordingly,
570 and because Defendants hindered Plaintiff ability to possibly avoid litigation through an alternate
571 remedy,

572 Plaintiff fulfilled her obligation to exhaust any available administrative remedies.²⁴

573 CONCLUSION

574 Because Plaintiff gave Defendants general notice of the claims against them, including
575 adequate facts to formulate an answer, Plaintiff meets the legal standard required of Pleadings
576 under Rule 8(a)(1) Fed. R. Civ. P.

577 Additionally, because Plaintiff also addressed Defendant's criticism by enumerating
578 Plaintiff causes of action, matching facts to elements of each cause of action, and adding a

²⁴ See Restatement (Second) of Torts § 918, comment c (tort victim "is not barred from full recovery by the fact that it would have been reasonable for him to make expenditures or subject himself to pain or risk; it is only when he is unreasonable in refusing or failing to take action to prevent further loss that his damages are curtailed").

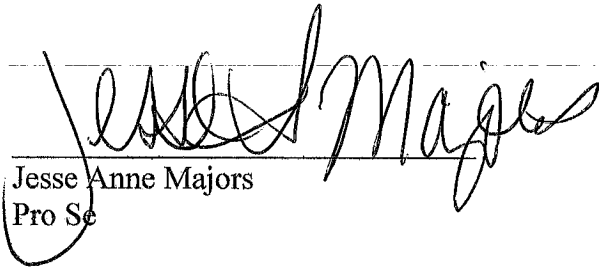
modicum of facts to this Memo, Plaintiff has met the requirements to permit Plaintiff to proceed to discovery and trial phases of litigation.

Therefore, Defendants Motion to Dismiss should be

DENIED.

Accordingly, Plaintiff Jesse Anne Majors reserves the right to amend this motion and memorandum in any respect as motion practice and discovery proceed in this matter.

Dated this 14th day of July, 2011.


Jesse Anne Majors
Pro Se

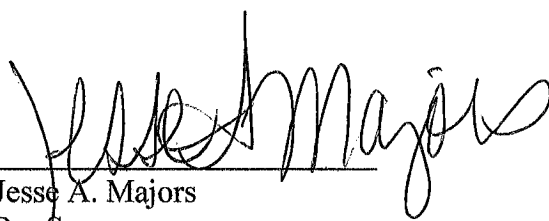
Delivery Certificate

I hereby certify that I caused a true and correct copy of the foregoing Motion to be served by the method(s) indicated below and addressed to the following on this 14th day of July, 2011.

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☐ Overnight Mail
☐ Facsimile
☒ E-mail
☐ CM/ECF Posting

DATED this 14th day of July, 2011.



Jesse A. Majors
Pro Se